IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

OP.No. 3102 of 1999(T)

PETITIONER:

THE TIRUR TALUK PRIVATE BUS OPERATORS' ASSOCIATION,
TIRUR, REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.P.RAVINDRAN

RESPONDENTS:
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1. THE REGIONAL TRANSPORT AUTHORITY,
MALAPPURAM.

2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
MALAPPURAM.

BY SENIOR GOVERNMENT PLEADER SRI.M.R.SABU

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1	TRUE COPY OF THE PERMIT IN RESPECT OF S/C KLM 3567.
EXT.P1(a)	TRUE COPY OF THE PERMIT IN RESPECT OF S/C KL 10 9580.
EXT.P2	TRUE COPY OF THE NOTICE DATED 28.12.98 RECEIVED BY THE HOLDER OF EXT.P1 PERMIT FROM THE SECOND RESPONDENT.
EXT.P3	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.
EXT.P4	TRUE COPY OF THE SHOW CAUSE NOTICE DATED 15.1.1999 ISSUED BY THE SECOND RESPONDENT UPON S/C KL 10 4939.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

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H.L. DATTU, C.J. & K.T. SANKARAN, J.

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O.P. No. 3102 OF 1999

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Dated this the 22nd June, 2007

J U D G M E N T

H.L. Dattu, C.J.:

Petitioner is an association of the private stage carriage operators of Tirur Taluk.

2. In this Original Petition, the petitioner is seeking the following reliefs:

> *"a) Declare that the condition u/s 72(2)(xxiii) of the Motor Vehicles Act is not a mandatory statutory condition attaching to each stage carriage permit and that unless specifically attached by the Regional Transport Authority , compliance of this condition cannot be insisted upon by the authorities.*
>
> *b) Call for the records leading upto Ext.P2 and P4 notices issued by the 2nd respondent, and all similar notices, and to quash the same by the issuance of a writ in the nature of certiorari, or any other such appropriate writ, order or direction.*
>
> *c) Issue a writ in the nature of prohibition or any other such appropriate writ, order or direction, restraining the*

respondents from initiating any action against the members of the petitioner association, in the nature of Exts. P2 and P4, for alleged violation of any condition not actually included in the permit itself or mandatorily attached thereto by operation of law;

d) Stay the operation of Exts. P2 and P4 and all similar notices issued by the 2nd respondent to the members of the petitioner association, as also all proceedings pursuant thereto, pending disposal of the above Original Petition.

e) Stay the operation of Exts. P2 and P4 and all similar notices issued by the 2nd respondent to the members of the petitioner association, as also all proceedings pursuant thereto, pending disposal of the above original petition'

f) Issue any other such writ order or direction as this Hon'ble Court may deem fit and necessary to issue in order to meet the ends of justice on the facts and in the circumstances of the case; and

g) award the costs of this petition in these proceedings to this petitioner."

3. One of the prayers in the Original petition is to quash the show cause notices dated 15.01.1999 and 28.12.1998.

4. This Court , while entertaining the Original Petition, had directed the petitioners to file their objections, if any, to the show cause

notice dated 15.01.1999 and had also directed that no final orders shall be passed without the leave of this court.

5. At the time of hearing of this Original Petition, the learned counsel for the petitioner submits that without going into the details of the case, the Original Petition may be disposed of, directing the respondents to consider the objections filed by the petitioner to the impugned show cause notices issued by the respondents and also permit the petitioner's association to question, in the event of, any adverse order that may be passed.

6. Mr. Sabu, learned Senior Government Pleader has no objection to the request made by the counsel for the petitioner.

7. Therefore, the following:

O R D E R

i). Original Petition is disposed of.

ii). The respondents will consider the objections filed by the petitioner's association to the show cause notices, as expeditiously as possible, at any rate, within six months from the date of receipt of a copy of this order.

iii) If, for any reason, the petitioner is aggrieved by the orders so passed, petitioner is at liberty to question the same before the appropriate forum.

iv) C.M.P.No. 5284 of 1999 is also disposed of.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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H.L. DATTU, C.J. &
K.T. SANKARAN, J.

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O.P. No. 3102 OF 1999

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Dated this the 22nd June, 2007

J U D G M E N T